IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS No.668 of 2000
with
Civil Application No.353 of 2003

with

SPECIAL CIVIL APPLICATION No.663 of 2000
with
Civil Application No.411 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NAYNABEN BABUBHAI BHATT
Versus
COMMISSIONER OF HIGHER EDUCATION

Appearance:
1. Special Civil Application No. 668 of 2000
MR PK JANI for Petitioner No. 1
RULE SERVED BY DS for Respondent No. 1
NOTICE SERVED for Respondent No. 2
NANAVATI & NANAVATI for Respondent No. 3
MR MITUL K SHELAT for Respondent No. 4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 28/01/2003

COMMON ORAL JUDGEMENT

1. With the consent of the parties the matters are taken up for final hearing today.

2. The short point involved in these petitions is the effect of giving grant-in-aid to private law colleges and the placement of teaching staff in direct payment scheme. Pursuant to the interim orders passed by this Court (Coram: H.K.Rathod, J.) on 3-5-2000, the petitioners have already been placed in direct payment scheme. However, the only aspect which is required to be considered is the placement of the petitioners from the academic year 1996-97.

3. After hearing the learned Counsel for the petitioners as well as for the respondents, there is a consensus amongst the learned Counsel for the petitioners as well as for the respondents that both the petitions are covered by the judgement of the Division Bench of this Court dated 19-1-2002 in SCA No.5660 of 1983 and allied matters. It may be noted that at the instance of the Bar Council of Gujarat in SCA No.10141 of 1996, initially the Division Bench of this Court on 16-1-1997 had passed the interim order which reads as under:

"1. This petition is filed by the Bar Council of Gujarat making various grievances. Educationwise, the State of Gujarat has several faculties, namely, Arts, Science, Commerce, Engineering, Medicine and Law. Except Law, all other faculties run by the recognized non-Government colleges are given grant-in-aid by the Government. However, the Government recognized non-Government Law Colleges, especially to the teaching staff, said grant-in-aid is denied. It is submitted by the Bar Council that most of the institutions are not in position run the colleges because of huge expenditure. During the course of discussion, it appears that so far as the non-teaching staff is concerned, limited grant is given to the extent of Rs.100/-per student. No grant is given with regard to teaching staff and in all other

faculties grant-in-aid is made available to the teaching as well as non-teaching staff. Mr.P.K.Jani, Ld.advocate for Bar Council drew our attention to the decision of the Apex Court in the case of "STAFF OF MAHARASHTRA vs. MANUBHAI PRAGATI VASHI 7 & ORS" reported in 1995(2) GLH 422. Almost identical situation was prevailing in that case. We, therefore, issue rule in this matter and give following directions in terms of directions given by the Apex Court in the aforesaid case:-

"(A) Government is directed to extend the grant-in-aid scheme to all Government recognized private law colleges, on the same criteria as such grants are given to other faculties, viz Arts, Science, Commerce, Engineering and Medicine from the academic year 1996-97.

(B) The scheme shall be implemented within three months from today.

(C) Government shall ensure, by taking appropriate steps, that those private law colleges duly and properly recognized by Government and/or other competent authorities, including the Bar Council of India, and conforming to standards laid down by appropriate authorities and affiliated to an established University alone are afforded the grant-in-aid. Steps shall be taken to ensure that the aided institutions, abide by all the rules and regulations of the aforesaid authorities for recognition and affiliation including such of those rules and regulations in the matter of recruitment of teachers, staff, their conditions of service, syllabus, standard of teaching and discipline. In this context the Bar Council of India Rules, Part IV, standards of legal education and recognition of degrees in law or admission as Advocates, should be the guiding factor.

(D) Government should further ensure that a high standard is maintained in legal education and in that behalf, the Government of Gujarat shall, with the

concurrence of the concerned University, the Bar Council of India, Bar Council of Gujarat and other competent bodies or persons, as the case may be, take all necessary steps, so that excellence in legal education is achieved. This shall be done expeditiously."

2. Notice was issued in this matter on 12.12.1996 which was made returnable on 20.12.1996. Affidavit-in-reply was not filed, and at the fag end of the day when the order is to be concluded, affidavit-in-reply is filed. At 2.45 p.m. the Ld.APP requested the court to keep the matter back for some time and the matter is taken up at 3.30 p.m.

3. Mr.P.K.Jani, Ld.advocate pointed out that the State Government, vide its letter, dated 12.10.95, had asked for the details for the purpose of giving grant-in-aid to the Law Colleges pursuant to the judgement of the Supreme Court and had also sought the information from all the Law Colleges. It is submitted that all the law colleges have submitted information and thereafter no action is taken. If the letter is written on 12.10.95 and the information is submitted by the Law Colleges, we fail to understand as to why action is not taken by the State Government in time. In affidavit-in-reply filed by the State Government, we do not find any averment to the effect that information is not supplied by all law colleges as called for by letter, dated 12.10.95 --Annexure"C".

16.1.1997 (B.C.PATEL,J)
(M.S.SHAJ,J)"

4. Thereafter, in the final judgement dated 19-1-2002, the Division Bench of this Court at para 14 has observed as under:

"14. As a result of the discussion aforesaid, this batch of petitions is disposed of in the following manner:-

SCA No.10141/96 filed by the Bar Council of Gujarat is disposed of in terms of the order made in the case by the Division Bench of this court on 16.1.97 and which has been fully implemented by the State Government. No further orders are

required to be made. Order dated 16.1.1997 is made absolute."

5. Therefore, the interim directions made by the Division Bench dated 16-1-1996 in SCA No.10141/1996 are made absolute while passing the final judgement in the said matter. The direction No.1, inter alia, provides for extending the benefits of grant-in-aid scheme to all government recognized private law colleges on the same criteria as such grants are given to other faculties i.e. Arts, Science etc., from the academic year 1996-97.

6. In above view of the matter, I find that the petitioners, who are employees of respondent No.3 college, would be entitled to the same benefits since respondent No.3 college is one of the private law colleges situated in the Gujarat State and the college would be covered by the interim order dated 16-1-1996 passed by the Division Bench of this Court and since the petitioners are the employees, the would be entitled to the consequential benefits.

7. In view of the above discussion, the petitions succeed. The respondents are directed to place the petitioners in direct payment scheme w.e.f. the academic year 1996-97. The petitions are allowed to the aforesaid extent. Rule made absolute accordingly. On account of the placement in direct payment scheme, the consequential benefits including that of the arrears shall be disbursed to the petitioners within a period of three months from the date of receipt of the order of this Court. Rule made absolute accordingly. No costs. Direct service is permitted.

28-1-2003 (Jayant Patel, J.)

vinod